

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

WILLIAM DAMON AVERY,

Plaintiff,

-vs-

Case No. 11-C-408

CITY OF MILWAUKEE, et al.,

Defendants.

DECISION AND ORDER

This matter is scheduled for a trial to commence on June 1. Now before the Court are three motions. 1. William Avery's motion to determine the portions of Antron Kent's deposition that are admissible at trial. 2. Avery's motion to supplement his voir dire. 3. Avery's motion to call witness Keith Randolph live at trial.

1. Previously, the Court held that there were "exceptional circumstances" which justified the use of Antron Kent's deposition in lieu of live testimony. ECF No. 109, at 7; Fed. R. Civ. P. 32(a)(4). Avery now seeks to limit the use of that testimony to specific excerpts. Defendants argue that all 27 pages of the deposition transcript should be read to the jury. Since the defendants will be unable to cross-examine Mr. Kent, the Court agrees that it is patently unfair to allow Avery to pick and choose the

evidence that supports his case. Avery's motion [ECF No. 118] is **DENIED**. If Avery still wants to use this evidence, the jury must hear the entire transcript of Kent's deposition.

2. The plaintiff, of course, bears the same last name as Steven Avery, who notoriously murdered a woman after he was freed from prison on a prior rape conviction. Plaintiff argues that potential jurors should be voir dired on any knowledge of the Steven Avery case and assured that plaintiff's case has nothing to do with Steven Avery. The Court agrees that this is an appropriate inquiry. The motion to supplement [ECF No. 119] is **GRANTED**.

3. Avery moves to call Keith Randolph as a live witness at trial. Defendants do not oppose this request. Live testimony is always preferable, so this motion [ECF No. 122] is **GRANTED**.

Dated at Milwaukee, Wisconsin, this 27th day of May, 2015.

SO ORDERED:


HON. RUDOLPH T. RANDA
U.S. District Judge